

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 5967 of 2025**

=====

PRADIPBHAI SOMABHAI BHAVSAR

Versus

MANJULABEN SURENDRABHAI BHAGAT

=====

Appearance:

MR Y J PATEL(3985) for the Petitioner(s) No. 1

MS JIGNESH A PATHAK(5182) for the Petitioner(s) No. 1

=====

CORAM:HONOURABLE MR. JUSTICE MAULIK J.SHELAT**Date : 01/05/2025****ORAL ORDER**

Heard learned advocate Mr. Y. J. Patel for the petitioner. After arguing for some time, under the instructions of his client he does not press the present petition with a liberty to approach the executing Court for staying the execution proceedings on condition that, without prejudice to the rights and contentions of the petitioner, petitioner will deposit decretal amount with the executing Court which may not be disbursed in favour of the decree holder till appellate Court passes any order in appeal, which is already instituted.

Considering the request made, it appears reasonable, the same is accepted. It would be appropriate for the petitioner to approach the executing Court with a request to deposit the entire decretal amount and it is also open for the petitioner to request the executing Court that until the appellate Court passes any order in the appeal / stay application, an amount

deposited by the petitioner may not be disbursed in favour of the decree holder.

If such an application is filed, after giving opportunity of hearing to all parties, the executing Court shall decide the same in light of the fact that petitioner has already filed an appeal.

At this stage, learned advocate Mr. Patel would state that the appellate Court has already heard the delay application, but not passed any order. It is requested to the appellate Court concern to make available copy of order in the delay application, so filed by the petitioner, at the earliest and if delay is condoned by the appellate Court, it may take up the appeal with stay application for hearing, as petitioner is facing the execution proceedings.

In view of the aforesaid, present writ application is disposed of as withdrawn. There shall be no order as to costs.

It is made clear that this Court has neither gone into nor examined the merits of the matter.

Direct service TODAY is permitted.

DRASHTI K. SHUKLA

(MAULIK J.SHELAT,J)

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: DRASHTI HIRENBHAI MER(HC00354), PRINCIPAL PRIVATE SECRETARY, at High Court of Gujarat on 01/05/2025 14:07:28